

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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In re: **Chapter 11**
Case No. 10-50413-JBR
347 LINDEN LLC, **Civil Case No. 11-cv-1990 (KAM)(VVP)**
Civil Case No. 11-cv-2201 (KAM)
Civil Case No. 11-cv-2202 (KAM)
Debtor-Appellant.

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**DECLARATION OF BARRY FELDER IN OPPOSITION TO DEBTOR'S
EMERGENCY ORDER TO SHOW CAUSE WITH TEMPORARY RESTRAINTS
REGARDING A REQUESTED STAY PENDING APPEAL**

BARRY FELDER, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury as follows:

1. I am an attorney duly admitted to practice law in the State of New York and am a Partner at Foley & Lardner LLP, counsel for Federal National Mortgage Association ("Fannie Mae") in this action. I make this declaration in opposition to debtor's so-called emergency motion for a stay pending appeal and temporary restraints.

2. The foreclosure sale on the property at issue in this case has been twice postponed. The first time, by debtor's bankruptcy filing in November 2010, and the second time, in April 2011, by a stay sought directly, and improperly, from the District Court. On June 8, 2011, your Honor dismissed the application for stay and the sale was rescheduled for July 21, 2011. (A copy of that decision is Exhibit A.) Now, again on the eve of the sale, the debtor seeks yet another delay.

3. As shown in the accompanying memorandum submitted by Fannie Mae in the District Court proceedings (Exhibits B and C), and the transcript of the hearing of the lift stay application (Exhibit D), the Bankruptcy Court correctly lifted the automatic stay and dismissed

this proceeding, and the debtor has not and cannot satisfy any of the prerequisites for obtaining a stay pending appeal.

4. On Friday, the Bankruptcy Court summarily dismissed debtor's "emergency" application entirely (Exhibit E)

Ordered, that the request is denied because: I) the debtor self-created an emergency situation and put itself in this position, since the appeal court's order denying the debtor's motion to stay bankruptcy orders pending appeal was issued on June 8, 2011, and II) based on the submitted documents, the debtor failed to satisfy all four required elements that 1) there is likelihood of success on the merits of the appeal; (2) appellant will suffer irreparable injury if the stay is denied; 3) no substantial harm will come to appellee; and (4) that issuance of the stay would not involve harm to the public interest.

We urge this Court to do the same.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 18, 2011
New York, New York

/s/ Barry Felder

BARRY FELDER